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COMMONWEALTH OF VIRGINIA

STATE CORPORATION COMMISSION

AT RICHMOND, FEBRUARY 12, 1999

APPLICATION OF

PICUS COMMUNICATIONS, LLC

CASE NO. PUC990026

For certificates of public  
convenience and necessity to  
provide local exchange and  
interexchange telecommunications  
services and for interim operating  
authority

ORDER FOR NOTICE AND HEARING

On February 9, 1999, PICUS Communications, LLC ("PICUS") or ("Applicant") filed an application for certificates of public convenience and necessity ("certificates") with the State Corporation Commission ("Commission") to provide local exchange and interexchange telecommunications services throughout the Commonwealth of Virginia. PICUS also requested authority to price its interexchange services on a competitive basis pursuant to § 56-481.1 of the Code of Virginia and requested interim authority to provide the above referenced telecommunications services.<sup>1</sup>

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<sup>1</sup> By Commission Order dated May 1, 1997, in Case No. PUC970004, Atlantic Telecom, Inc. ("Atlantic Telecom"), was authorized to provide local and interexchange telecommunications services throughout the Commonwealth of Virginia. On February 5, 1999, PICUS and Atlantic Telecom filed an application to transfer the assets of Atlantic Telecom to PICUS and a motion for expedited treatment of the proposed transfer. That application is docketed as Case No. PUA990005. Since the proposed transfer would not transfer Certificate No. TT-35A authorizing Atlantic Telecom to provide

NOW UPON CONSIDERATION of the application, the Commission is of the opinion and finds that PICUS' application should be docketed; that PICUS should give notice to the public of its application; that the Commission Staff should conduct an investigation into the reasonableness of the application and present its findings in a Staff report; and that a public hearing should be convened to receive evidence relevant to PICUS' application for a certificate to provide local exchange services, and if substantive objections are received, evidence shall be received at the public hearing with regard to PICUS' application for a certificate to provide interexchange services. We will, considering the application filed in Case No. PUA990005, grant PICUS authority to operate and provide services to customers under the tariffs of Atlantic Telecom subject to further order of this Commission. Accordingly,

IT IS ORDERED THAT:

- (1) This case is docketed and assigned Case No. PUC990026.
- (2) A public hearing for the purpose of receiving evidence relevant to PICUS' application for a certificate to provide local exchange services is scheduled for April 14, 1999, at 10:00 a.m., in the Commission's second floor courtroom located in the Tyler Building, 1300 East Main Street, Richmond,

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interexchange telecommunications services and Certificate No. T-378 authorizing Atlantic Telecom to provide local exchange telecommunications services, PICUS has filed this application as PICUS will obtain the operating assets of Atlantic Telecom if the proposed transfer is approved.

Virginia. If substantive objections to PICUS' application for a certificate to provide interexchange services are received on or before March 22, 1999, the Commission will also hear evidence on this issue at the April 14, 1999, public hearing. If no such substantive objections are received on or before March 22, 1999, the Commission may grant PICUS' requested certificate to provide interexchange services without conducting a hearing.

(3) On or before March 11, 1999, PICUS shall complete publication of the following notice, which may be published on one occasion as classified advertising in newspapers having general circulation throughout PICUS' proposed service territory:

NOTICE TO THE PUBLIC OF APPLICATION BY PICUS  
COMMUNICATIONS, LLC FOR CERTIFICATES OF  
PUBLIC CONVENIENCE AND NECESSITY TO PROVIDE  
LOCAL AND INTEREXCHANGE TELECOMMUNICATIONS  
SERVICES, CASE NO. PUC990026

By Order of the State Corporation  
Commission ("Commission") dated May 1, 1997,  
in Case No. PUC970004, Atlantic Telecom,  
Inc. ("Atlantic Telecom"), was authorized to  
provide local and interexchange  
telecommunications services throughout the  
Commonwealth of Virginia.

On February 5, 1999, PICUS  
Communications, LLC ("PICUS") and Atlantic  
Telecom filed an application to transfer the  
operating assets of Atlantic Telecom to  
PICUS. That proceeding is docketed as Case  
No. PUA990005. If approved, that  
application would not transfer Atlantic  
Telecom's Certificate No. TT-35A to provide  
interexchange telecommunications services  
and Atlantic Telecom's Certificate T-378 to  
provide local exchange telecommunications  
services to PICUS. Accordingly, on February

9, 1999, PICUS completed an application for certificates of public convenience and necessity ("certificate") to the Commission to provide local exchange and interexchange services.

A public hearing will be convened on April 14, 1999, at 10:00 a.m. in the Commission's second floor courtroom located in the Tyler Building, 1300 East Main Street, Richmond, Virginia, to hear evidence relevant to PICUS' application for a certificate to provide local exchange services. The Commission will hear evidence on PICUS' application for a certificate to provide interexchange services at the April 14, 1999, public hearing only if substantive objections to this portion of the application are filed on or before March 22, 1999. If no such substantive objections are received, the Commission may grant the certificate to provide interexchange services without a hearing.

Copies of the above referenced applications are available for public inspection between the hours of 8:15 a.m. and 5:00 p.m. in the Commission's Document Control Center located on the first floor of the Tyler Building, 1300 East Main Street, Richmond, Virginia 23219, or can be ordered from Eric M. Page, Esquire, and James P. Guy, II, Esquire, LeClair Ryan, Innsbrook Corporate Center, 4201 Old Dominion Boulevard, Suite 200, Glen Allen, Virginia 23060.

Any person desiring to comment in writing on PICUS' application for certificates to provide local exchange services or interexchange services may do so by directing such comments on or before March 22, 1999, to the Clerk of the Commission, at the address set out below. Any person desiring to make a statement at the public hearing concerning PICUS' application for certificates to provide local exchange services or interexchange services need only appear in the Commission's second floor courtroom at 9:45

a.m. on the day of the hearing and identify himself or herself as a public witness to the Commission's Bailiff.

Any person who expects to submit evidence, cross-examine witnesses, or otherwise participate in any of these proceedings as a Protestant pursuant to Commission Rule 4:6 of the Commission's Rules of Practice and Procedure should promptly obtain a copy of the corresponding Order for Notice and Hearing from the Clerk of the Commission for complete details of the procedural schedule and instructions on participation.

Individuals with disabilities who require an accommodation to participate in the hearing should contact the Commission at least seven (7) days before the scheduled hearing date at 1-800-552-7945 (voice) or 1-804-371-9206 (TDD).

All written communications to the Commission concerning PICUS' application should be directed to Joel H. Peck, Clerk of the State Corporation Commission, c/o Document Control Center, P.O. Box 2118, Richmond, Virginia and must refer to Case No. PUC990026.

#### PICUS COMMUNICATIONS, LLC

(4) On or before March 11, 1999, PICUS shall give notice of its application to each local exchange telephone carrier certificated in Virginia and each interexchange carrier certificated in Virginia by personal delivery or first-class mail, postage prepaid, to the customary place of business or residence of the person served. Lists of all current local exchange and interexchange carriers in Virginia are attached to this Order as Appendices A and B, respectively.

(5) On or before March 10, 1999, PICUS shall prefile with the Commission an original and fifteen (15) copies of any additional direct testimony it intends to present at the public hearing. Copies shall also be served on any person who files a Notice of Protest.

(6) On or before March 22, 1999, any person desiring to participate as a Protestant as defined in Rule 4:6 of the Commission's Rules of Practice and Procedure ("Rules") shall file an original and fifteen (15) copies of a Notice of Protest as provided in Rule 5:16(a), and shall serve a copy of the same on Eric M. Page, Esquire, and James P. Guy, II, Esquire, LeClair Ryan, Innsbrook Corporate Center, 4201 Old Dominion Boulevard, Suite 200, Glen Allen, Virginia 23060.

(7) On or before March 22, 1999, any person wishing to lodge an objection to PICUS' application for a certificate to provide interexchange services shall file an original and fifteen (15) copies of its objection in writing with Joel H. Peck, Clerk of the State Corporation Commission, c/o Document Control Center, P.O. Box 2118, Richmond, Virginia 23218. Written objections shall refer to Case No. PUC990026 and shall state with specificity why a hearing is necessary. If substantive objections are received, the Commission will hear evidence relevant to this portion of the application at the April 14, 1999, public hearing.

(8) Any person desiring to comment in writing on PICUS' application for a certificate to provide interexchange services may do so by directing such comments on or before March 22, 1999, to the Clerk of the Commission at the address set forth above. Written comments must refer to Case No. PUC990026.

(9) Any person desiring to comment in writing on PICUS' application for a certificate to provide local exchange services may do so by directing such comments on or before March 22, 1999, to the Clerk of the Commission at the address set out above. Comments must refer to Case No. PUC990026. Any person desiring to make a statement at the public hearing concerning the application for a certificate for local exchange services need only appear in the Commission's second floor courtroom at 9:45 a.m. on the day of the hearing and identify himself or herself to the Bailiff as a public witness.

(10) Any person who expects to submit evidence, cross-examine witnesses, or otherwise participate in the proceedings as a Protestant pursuant to Rule 4:6 shall file on or before March 22, 1999, an original and fifteen (15) copies of its Protest, referring to Case No. PUC990026, and shall on the same day mail a copy thereof to Eric M. Page, Esquire and James P. Guy, II, Esquire, at the address identified above and to any other Protestants. The Protest shall set forth (i) a precise statement of the interest of the Protestant in the proceeding; (ii) a full and clear statement of the facts which the

Protestant is prepared to prove by competent evidence; and (iii) a statement of the specific relief sought and the legal basis thereof. Any corporate entity that wishes to submit evidence, cross-examine witnesses, or otherwise participate as a Protestant must be represented by legal counsel in accordance with the requirements of Rule 4:8 of the Commission's Rules.

(11) On or before March 22, 1999, each Protestant shall file with the Clerk of the Commission an original and fifteen (15) copies of the prepared testimony and exhibits the Protestant intends to present at the hearing, and shall on the same day, mail a copy of the same to Eric M. Page, Esquire, and other Protestants. Service upon PICUS shall be made at the address set forth above.

(12) The Commission Staff shall analyze the reasonableness of PICUS' application and present its findings in a Staff Report to be filed on or before April 2, 1999.

(13) On or before April 2, 1999, if necessary, the Commission Staff may file with the Clerk of the Commission an original and fifteen (15) copies of any prepared testimony and exhibits it intends to present at the public hearing. A copy of the Staff's direct testimony shall be mailed to counsel for the Applicant and to each Protestant.

(14) On or before April 9, 1999, the Applicant shall file with the Clerk of the Commission an original and fifteen (15) copies of any testimony it expects to introduce in rebuttal to



any direct prefiled testimony of Staff and Protestants. A copy of the rebuttal testimony shall be mailed to Staff and each Protestant by overnight delivery.

(15) At the commencement of the hearing scheduled herein, PICUS shall provide to the Commission proof to the notice and service required by Ordering Paragraphs (3) and (4) herein.

(16) The Applicant shall respond to written interrogatories or data requests within seven (7) days after the receipt of the same. Protestants shall provide to the Applicant, other Protestants and Staff any workpapers or documents used in preparation of their prefiled testimony, promptly upon request. Except as so modified, discovery shall be in accordance with Part VI of the Rules.

(17) PICUS is authorized to operate and provide services to customers under the tariffs of Atlantic Telecom pending the issuance of further Commission Orders.